

*Approved Minutes
South Florida Ecosystem Restoration
Working Group Meeting
Orlando, Florida
June 3, 2003*

Welcome and Opening Remarks

Maureen Finnerty called meeting to order at 12:45PM noting that Rick Smith was unable to attend meeting. There were no changes to the agenda (Encl. 1) and the May minutes (Encl. 2) were provided.

Working Group Members	June 3	June 4	Alternates
Ernie Barnett – FL Dept of Environmental Protection	-	-	John Outland (both days)
G. Ronnie Best – U.S.G.S.	√	√	
Billy Causey – NOAA, FL Keys Nat'l Marine Sanctuary	√		
Kathy Copeland – South Florida Water Management District	-	-	Joni Burda (both days)
Wayne Daltry – Southwest FL Regional Planning Council	√		
Essie Duffie – NOAA, National Marine Fisheries Service	-		Alex Chester
Gene Duncan – Miccosukee Tribe of Indians of FL			
Maureen Finnerty – National Park Service	√		
Roman Gastesi, Jr. – Miami Dade County			
Joanna Goger, U.S. Department of Justice	-	-	
George Hadley – U.S. Dept of Transportation	-	-	
Thaddeus Hamilton - U.S. Department of Agriculture	√	√	
Richard Harvey – Environmental Protection Agency	√	√	
Norman Hemming – U.S. Attorney's Office	√	√	
Ronald Jones – Southeast Environmental Research Center	-	-	
Chris Katzenmiller – Bureau of Indian Affairs	√		
COL Greg May - U.S. Army Corps of Engineers	-	-	Dan Hayes (day 1), Dennis Duke (day 2)
Peter B. Ortnier – NOAA			
Donna Pope - FL Dept. of Transportation	-	-	Marjorie Bixby (both days)
Fred Rapach – Palm Beach County Water Utilities Dept	√		
Terry Rice – Miccosukee Tribe of Indians of Florida			
Mark Robson - Florida Fish and Wildlife Conservation Commission	√	√	
W. Ray Scott - FL Dept of Agriculture and Consumer Services	√		
Jay Slack – U.S. Fish and Wildlife Service	√	√	
Rick Smith – Office of the Governor of Florida	-	-	
Ron Smola – U.S. Department of Agriculture	√	√	
Steve Somerville - Broward County Department of Natural Resource Protection	-		Patti Webster
Craig Tepper - Seminole Tribe of Florida	-	√	Michelle Diffenderfer
Henry E. "Sonny" Timmerman - Department of Community Affairs			
Kenneth S. Todd – Palm Beach County Water Resources Manager	√	√	
Rock Salt, Special Advisor	√	√	
Garrett Wallace, Special Advisor	-	-	

Whip Around

Billy Causey announced he would be attending the U.S. Coral Reef Task Force's coral bleaching/climate changing workshop and he promised to report back on the results of this critical issue. Joni Burda announced Frank Bernardino would replace Kathy Copeland on the Working Group. Dan Hayes for COL May said COL May was unable to attend and Dennis Duke would represent the Corps on the following day. Jay Slack announced the second Avian Ecology Workshop would be scheduled in conjunction with the July Task Force meeting in Key Largo and the report would be sent out shortly from team a month in advance. Michelle Diffenderfer sitting in for Craig Tepper said Craig would attend the session on the following day. Ken Todd said that Palm Beach County is continuing to work with the SFWMD and others in putting together alternatives for the Northern Palm Beach County PDT. Marjorie Bixby announced that Jose Abreu, District 6 Secretary is now the State Secretary and his replacement is John Martinez. Ron Smola noted the Coral Reef Task Force has asked the local areas to develop action strategies for various parts of the country. The Southeast Florida Action Team met for the first time to develop an action strategy to address the coral reefs offshore Miami-Dade, Broward and Palm Beach counties. Strategy should be

completed by September and it will then be presented to the Coral Reef Task Force at its October meeting in Guam.

Task Force/Working Group Re-Look

Rock Salt noted the National Academy of Science submitted a report on Interior's management of Critical Ecosystems Studies Initiative (CESI) and made recommendations about improving the value of the department's investment in that program. Part of the recommendations included fitting in with RECOVER and the Task Force. GAO was also asked to review science coordination in the restoration effort and their report provided recommendations to improve the role and function of the Science Coordination Team (SCT). The Task Force had an in-depth discussion on the GAO report at its April meeting and Ms. Klee directed him to develop an options paper and invite the SCT to the next Task Force meeting for the purpose of talking about science coordination. Rick Smith also presented their priorities document approved by the Working Group (WG) and introduced Kathy Copeland's suggestion to reorganize the WG to meet concurrently with the Task Force and serve as a subcommittee. The options paper (Encl. 3) was drafted to address these two matters. The SCT has also drafted recommendations (Encl. 4) and will be ultimately rolled into the options paper. He noted that the linkage between the SCT and Working Group has diminished over the last ten years. Over the last ten years the WG moved from a voluntary group to one that now has staff via the Office of the Executive Director. The SCT lacks professional staff to assist it in performing its work. The restoration effort has now moved from planning to implementation. He reviewed the four options proposed for the WG, option one would keep the WG as is with no change to its charter and option four would replace the WG with a series of functional subgroups. He also reviewed the proposed options for the SCT, first option keeps the existing SCT charter, option 2 would be to reorganize the SCT and have it report to the WG with a revised charter, option 3 would create a science subgroup to the TF, option 4 would create a science advisory group with staff support from OED. Rock explained that the expectation is that the TF will review the options document and hoped Kathy Copeland's concerns about effectively targeting the talents of the WG members are addressed.

Wayne Daltry said that the assessment might vary depending on the task and suggested they look at each task and determine what is needed to complete the task. Jay Slack said option 4 would divide the group and it was important for the WG members to get together periodically adding it is important that senior leaders have access to the type of information provided during the updates. Billy Causey stated that option 4 would dilute their ability to communicate with each other and may fragment their work. With his science and outreach obligations, this option might necessitate that he be at more meetings. He suggested the WG meet quarterly and in conjunction with the Task Force and its sub groups could meet more frequently.

Ronnie Best asked that they better define what is broken and needs to be fixed adding that the Task Force does not meet frequently enough to do the work that the WG is tasked to do. He asked whether the WG failed to do anything the TF has asked them to do. He added that the science coordination issues needed to be addressed as well as the need for more senior representation at the SCT meetings. Rock Salt noted the WG has been reflecting on its role over the past three years and the current TF is very active. The WG has the authority to create subgroups, but when the TF learned that the WG wanted to create a subgroup on the CSOP, the TF stated that it wanted to approve that action. Option 4 is on the table since this is the closest to what Kathy and Rick have described as well as closest to what the SCT recommends in reporting directly to the TF.

Ken Todd said he liked option four if it is implemented in such a way that it does not dissolve the WG, but takes the various areas of expertise and maximizes the efficiency of effort. Norman Hemming commented that option 2 would require revising the WG charter and asked whether this meant they wanted a WRDA revision. Rock explained that once WRDA 96 was passed, the TF used WRDA to craft the WG charter. A revision might include looking at the membership. For example, the Secretary of the Commerce is a member of the TF yet the WG lists 3 different agencies that represent Commerce, perhaps we would change this to one. Jay Slack asked whether they could combine options 2 and 4 and revise it so that the WG would meet in conjunction with the TF with the subgroups meeting in the interim months between meetings. Rock clarified that the WG could meet immediately after a TF meeting to divvy up the tasks assigned by the TF and have a meeting the month before the TF to coordinate the WG report. This would allow the individual agencies to focus their efforts on the sub groups. Maureen Finnerty noted that the

community outreach effort that Kathy Copeland suggested was not captured in this options paper. Billy Causey suggested they also address the GAO staffing of the SCT. Rock stated that all of the science options have that feature, an administrative staff as well as staff capable of producing documents. Billy noted the three agencies within Commerce are very different with different challenges and mandates. Wayne said they needed to be sure that the policies they implement are informed by science.

Ron Smola said that he was one of the three around the table that's been around since 1993. With the complexities of the issues surrounding restoration, the exchange of information function between the agencies has been very important. The options paper seems to be suggesting a similar organizational structure they had in place in the beginning with the Science, Management, Infrastructure and Public Information subgroups. Patti Webster said there is some dissatisfaction with the way issues are being addressed but much is positive. The WG needs to address the tough and breaking issues. The WG needs to keep what is working and return to a forum for addressing tough issues. Thaddeus Hamilton suggested looking at the charter as it provides the necessary authority to do all the actions that have been discussed. He said the largest problem is non point source pollution and they need to do a better job of engaging the people in the communities and educating them of the threats in their communities. Fred Rapach said now is not a good time to disband any group working on restoration and said that better coordination with the TF is needed.

Michelle Diffenderfer said this was the first meeting in many months with 3 or 4 good topics on the agenda such as the legislative update and the reservations white paper, which is important to the future of CERP. This issue is important to the Seminole Tribe and there is a desire to get this group more involved. She noted that the Tribe will be sending a letter to WG Chair but from looking at the Options Paper, Tribe prefers options 1 and 2 and added that there should be more active participation of this group in CERP. As for organization, there are many times that information is not received until the day of the meeting or perhaps two days prior. She agreed it was important to discuss issues that are meaningful to the communities where the meeting is being held. With multiple representatives from the same agencies, it would be useful to determine who the "go to person" is. Re-occurring issues don't need to be briefed at every meeting. Rock Salt reviewed the comments made and added that there was nothing that would stop the WG from meeting at the same time and place as the TF with a follow-up meeting two months later to pull together the work. The current Charter allows for flexibility. Jay Slack clarified they are not really looking at options, but issues. Rock noted the Corps schedules the PMT meeting in conjunction with the WG meetings and discuss in detail those issues related to CERP, however, these meetings are not well attended. Michelle said perhaps it could be the choice of the meeting held and the Tribe attends the RECOVER meetings. Fred Rapach said the letter to Commissioner Bronson is a good example of where the WG may have an impact. However, the group needs to get beyond process since there is much to be done. Ray Scott informed the group that the proposal for the Lykes Brothers has been off the table for many months. He noted his concern over the group's jurisdiction other than to advise the Task Force. Rock clarified that the WG brings to the TF those matters it believes are essential, however, WG does not have any authority. Billy Causey suggested more WG members participate in the SCT, create a stronger SCT. Marjorie Bixby suggested asking Nanciann Regalado to make recommendations on the public outreach piece. Thaddeus Hamilton said the OEEECT should be included in these discussions. Rock noted he has not been asked to depict one over the other and outreach would be included in a stronger way. **Follow-up: Rock Salt would revise the paper based on the comments and circulate it to everyone. It would then be presented to the TF at its July 2003 meeting. He encouraged WG members to attend the July TF meeting.**

Public Comment

Patrick Hayes (Martin County S&W) said the operation and maintenance of the existing system is missing, a stronger mandate is needed to operate the existing infrastructure. He urged the system be operated for the benefit of the environment and the built system. He said that a sub team is needed to make the "hard core recommendations on how to operate what is on the ground now".

April Gromnicki (Audubon of Florida) stated that all of the appropriators have mentioned in formal letters a serious threat to Everglades funding. There is nothing on the agenda remotely related to water quality, restoration at the federal level or even federal appropriations. She added that this process does not deal

with the issues facing Everglades Restoration. She urged the group to weigh in when the WRAC takes up the issue of the Long term Water Quality Plan. She said she heard rumors that the WMD can do CERP faster and cheaper without the federal partner on specific projects. She also asked about the status of the cost benefit analysis being presented to the Governing Board later that month. She asked that any actions taken related to the analysis be done through a public process and the WG, TF and WRAC be involved.

Joni Burda responded she did not have an answer on the cost benefit analysis but would find out. As far as the rumor regarding the WMD, she confirmed it is just a rumor and the WMD is coordinating with the federal partners, discussions are ongoing nothing has come out of that yet.

SCT Recommendations

Ronnie Best presented the SCT recommendations for improving the effectiveness of scientific support. Some of the recommendations include renaming the team to Science Coordination Group and having it report directly to the Task Force and headed by a Science Executive Director who coordinates directly with the Task Force. Rock Salt noted option three is a synthesis of what the SCT is recommending. Jay Slack asked what the benefit would be to have the SCT report directly to the Task Force. Rock Salt reminded the members that when the Task Force was set up in 1993, they set up the SCT to work through the WG. Ronnie Best said that although the SCT is currently set up as a subordinate to the WG it should report on a regular basis to the Task Force similar to the WG. John Ogden said he felt strongly in favor of having a multi agency/disciplinary science group in south Florida and there are several niches in the science world that the SCT has been trying to fill. Collectively have some of the most knowledgeable people around and an organization is needed to attract these individuals who are currently scattered among the many resource agencies and universities. Science Executive Director proposed to head the group and the role would be similar to Rock's function. John Ogden said they are short in resources in sources and are obligated to maximize the efficiency of the resources they currently have. Ronnie Best said the group would coordinate science such as facilitating the external peer review process. John Ogden clarified RECOVER could produce a science document and ask the science group to facilitate the peer review. Jay Slack asked who was doing the scientific oversight of those non-CERP projects. John Ogden noted that could be a role for the group that would complement RECOVER but would require more resources. The ecological conceptual models, which are larger than CERP and already developed, could be the basis for an organized way of defining the system-wide performance measures for south Florida outside of CERP. Rock Salt noted his surprise by the intensity of the science discussion at the TF meeting. He observed that DOI is developing a science strategy and a lot has been learned in the process. He said it is possible to take planning documents and work them so that they are more readable for a non-scientific type audience. Dennis Duke noted his concern with the tendency to shift things to CERP. Need to clearly define the science coordination team's role, which is above and beyond CERP, he asked what the master plan was. Jay Slack noted the draft Everglades Science Compendium (Encl. 5) was compiled to help his agency identify what is out there. It is a single source document for decision-makers and designed as a complete desk reference that could be used by agencies as well as the public. **Follow-up: Rock noted the intent is to revise the options paper and present it to the Task Force. SCT has been asked to attend the Task Force meeting.**

Legislative Update

John Outland provided an update (Encl. 6): two new Governing Board members have been confirmed. Governor signed the Everglades Forever Act, SB 626, which provides \$49.5 million annually for the long-term plan. It uses the Long Term Plan, with modification, as a blueprint for achieving P criterion. SB 554 clarifies that term doesn't include withdrawal and use of groundwater within the same county. Allows consideration of impact on future water supplies based on comprehensive plans. Ratifies agreements between WMDs entered into before bill became effective. Lands Bill, SB 54A, requires FDEP to conduct an inventory of all publicly owned lands on a county-by-county basis. Required WMDs to offer surplus lands for purchase through state's surplus process. Allows WMDs to make payments in lieu of taxes for lands using Save Our Everglades Trust Fund. Provides that the pre-2006 projects be implemented without delay. Provides for revision of the plan to be reviewed by the department. Removes phrasing "to maximum extent practicable" and "earliest practicable date". Also clarifies that the entire funding from the Florida Forever program to the SFWMD goes to the district. Comments on the Long Term Plan can still be submitted until October or November. Joni Burda said they would continue to accept proposed changes up

until the time they go forward for the permit. Rock noted the federal government had no position on the bill or the glitch bill. Rock noted no one knows the impacts on the federal appropriations. Fred Rapach requested an update on the Long Term Plan at a future meeting. Fred Rapach requested DEP and the WMD provide a joint update on its position as a result of the recent legislation at the September meeting. Rock noted the bill provides a lot of money and an impetus to move ahead on a lot of things by 2006. Michelle Diffenderfer said the Seminole Tribe sent a letter urging the Governor to veto the bill. Tribe is concerned that it appears appropriators are intent on punishing while Shaw and others working hard to get as much money as possible. She asked for someone from the state to explain what the strategy for dealing with this issue is.

Lake Okeechobee Adaptive Protocols Update

Karl Havens provided a Power Point Presentation (Encl. 7) on the new regulation schedule. Water Supply and Environment (WSE) adopted in July 2000. Results were not seen for over a year because levels were low. Schedule is designed to optimize environmental benefits at minimal or no impact to competing lake purposes. Ecological stress, damage to littoral zone as well as other concerns served as the impetus for developing the WSE. Same infrastructure canals in place with changes occurring with how the system is operated. Pulse releases made to estuaries for extended periods when very large inflows are expected. Provides for more flexibility in release decisions by using climate forecasting instead of decision trees. Five distinct zones A - E, with zone E having no regulatory releases. Zone D is a conditional release zone and will depend on the tributary conditions and climate outlook. Adaptive Protocols for Lake Okeechobee document (Encl. 8) lays out the process used for looking at indicators in the system when deciding how much water to release. He reviewed the operational guidelines decision tree noting the schedule is designed to go from certain to least certain information available. Adaptive protocols document provide guidelines for determining specific volumes for regulatory discharges under the WSE schedule. It lays out an open transparent process. Lake Okeechobee operations web site maintained and linked to the WMD and Corps websites. Update on a week-by-week basis can be viewed, continual improvement input taken back to the WMD. WRAC recommendations of not exceeding 300 cfs unless approved by the Governing Board and taking advantage of opportunities to send water south to the conservation areas when needed have both been incorporated into the final protocols. The Governing Board is briefed every six months by the Director of Operations and changes are made as needed. Number of factors made it challenging to operate the lake this past year including El Nino followed by driest period January. Substantial improvement has been seen under the new schedule. Lake currently at 15 feet due to recent heavy rains. Regulatory pulses caused short-term decrease in estuary salinity but recovered when pulses ended. Impacts seen to seagrass beds, salt intolerant plants, water sent south goes through STAs large amount of water some periods of time when water could not be sent south. Pulse releases have reduced the risk for higher volume discharges later this year. Schedule has provided flexibility to do things never done before. Levels were kept a foot lower than in previous years and did not increase risk to water supply. Billy Causey asked whether any trace studies have been done noting some communities are affected by high salinity. He asked about what other assessments have been made in terms of water quality sampling done in coordination with the releases to determine what is being turned loose. Karl explained they are working with DEP and others to monitor those different plant communities when environmental releases are done. Water quality looked at closely, turbidity in particular. Fred Rapach asked about the response time for change in releases and about who makes decisions to start or stop. Karl replied the Corps makes determinations to stop pulse releases based on their recommendations. Ken Todd thanked Karl for his presentation noting he was glad to see it works and they need to continue to push for more storage north of the lake. John Outland said it was encouraging to see what WSE has done and asked how this ties in with CERP down the line. Karl said the objective under CERP calls for water levels between 12.5 and 15.5 feet but extensive use of ASR will have to be made. It will be difficult to manage water levels in the lake without ASR.

CSOP Advisory Team Charter

Rock Salt presented the draft Charter (Encl. 9) for a second reading. Historical background included in the purposes and objectives section. Minority views/report would be included if consensus is not reached. Membership not yet slated, list is incomplete. Attached to this document will be whatever is decided by the core agencies, Corps and WMD. Ron Smola noted he had issues on the agriculture side and would like them addressed.

Florida Earth Foundation

Ron Smola introduced Stan Bronson who presented a Power Point presentation (Encl. 10a) on the ongoing efforts. University of Florida Program was developed for Everglades restoration issues and science, program has grown and the Advisory Committee developing the program said it needed to be expanded. Incorporated into a new foundation in January 2002 with seventy partners. Mission objectives include engaging constituencies and conducting outreach, education and research. Ron Smola serves as the Chair of the Foundation. Decision-makers forums being developed in conjunction with Martha Musgrove as well as other projects such as developing lessons for grades K – 12. Newsletter (Encl. 10b) provided. Purpose of the presentation was to introduce the foundation and encourage membership. Looking for opportunities for any grants programs that become available. Patti Webster said she heard rave reviews about the decision-makers forum held in Broward and invited them to come back. Fred Rapach asked if there was something the group could do to acknowledge the group. Rock said he would seek policy guidance. Patti Webster suggested possibly a show of appreciation.

Public Comment

Mr. Dan Clark (Cry of the Water) showed the Cry of the Water video (Encl. 11) depicting the coral reef in Broward County essential to fisheries. He announced that the Governor and Cabinet voted in favor of the dredge and fill project in Broward County. Damage being caused by dredge and fill projects as well as projects that lay fiber optic cables. Sewer outfalls killing corals and he asked EPA and the other federal to “step up and enforce the Clean Water Act”.

Richard Harvey said the one outfall he is aware of is in international waters. These are facilities that are issued permits by the state of Florida. Studies done to look at what happens with the plumes. It is a DEP responsibility for the ocean outfalls. Richard Harvey said if it is an EPA problem, he wanted to know about it and promised to do something about it. Overall condition of the reefs is and action item for the Coral Reef Task Force and will see what the anthropogenic factors affecting those reefs. Land based source pollution is a growth management issue. Billy Causey noted there are representatives from all the federal agencies as well as representatives from the state and territories with coral reefs. They are moving ahead because they know and communicate with each other on a regular basis.

Meeting adjourned at 5:45 PM.

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Administrative Announcements

Meeting called to order at 8:40AM. Ronnie Best made a motion to approve minutes and Joni Burda seconded. Minutes approved as amended to correct the attendance on the second day.

Corps Update

Dennis Duke reviewed some of the hot topics (Encl. 12) related to ongoing projects:

Indian River Lagoon (IRL): Corps and WMD are working to address remaining questions from Corps HQ. Four primary issues: 90,000 acres have been added to the recommended plan for natural storage areas, dependency of restoration benefits on other CERP components, real estate needed, WRDA requirements. Rock noted that notwithstanding the language in the yellow book, the draft programmatic regulations require the Corps to justify each new component independently. Corps will be forced to re-think the schedule. He added that he believed the Corps would be forced to focus on storage and ASR before they are able to move ahead. Dennis Duke said the programmatic regulations allow for exceptions to this. Eighty three percent of the benefits of the IRL restoration are derived from that project alone. Corps will be working through to determine the real estate interest required, whether they are able to buy fee title, flowage easement or conservation easement. Working to develop those items to address WRDA 2000 such as water supply, maintenance of existing flood protection, operating manuals, etc will all go into a separate report. Chief's report will incorporate Feasibility Study into PIR and is to be sent to Congress early next year, February/March for possible WRDA 2004 considerations. Report stands as submitted and the Chief has the ability to alter what has been done, as of right now there is no plan to do that.

Southern Golden Gate Estates (SGGE): Corps and WMD working on issues identified to date with regards to additional modeling for maintenance of existing flood protection north of I-75. Currently working with a new model for the entire analysis. Refinement of alternative plans ongoing to determine restoration is achieved both within the SGGE and downstream. State has acquired over 50,000 acres of land need to determine whether they need full fee title and how much credit the federal government provides to the local sponsor. Still working on the draft report. Rock Salt asked about whether it was possible for the WMD to move forward in advance of authorization. Dennis Duke said they were looking into that and added that the Corps does not have authorization to provide credit beyond what was provided in WRDA 2000. Jay Slack asked about the certification of the lands by the federal government. Dennis explained that the Corps has to certify the value of the lands being claimed for credit and may do their own appraisals. They will encounter their own administrative costs to ensure the lands were acquired in accordance with federal regulations. Jay asked how the state would be able to move forward with land acquisition when the federal government still had to certify the lands. Dennis said he was not sure and this had to be worked through.

IOP/CSOP: operations under IOP of bypassing water through WCA 3a continue. Working Group asked to develop a CSOP Advisory Team, charter development underway. Purposes and objectives statement lays out the rules of the road for the team, their focus points.

Modified Water Deliveries (MWD): real estate appraisals are being updated. Working with Miami Dade on zoning issues and letters to vacate are being sent. Working closely with the WMD and Congressional Staff, Congressman Mario Diaz Balart and Commissioner Diaz providing assistance in making sure the intent of the letters are proper. Design proceeding with S-357 structure, canal and levee. Contract for demolition of those homes already purchased is being developed.

Water Quality Feasibility Study: working with DEP to refine the PMP, intent is to reduce the time and cost of the study. Also looking at phasing study with identification of the problem as part of Phase I and Phase II would take that information and develop alternative plans or further improvements. Rock Salt noted that

although he was nervous about this, he saw great hope in this. Richard Harvey said the structure seems appropriate and a lot is feeding into this process such as the state's TML process. He added that his concern is over the price tag and said the state, DEP, may have a hard time.

Programmatic Regulations: Dennis reported they are due anytime and expect transmittal to OMB in the near future. OMB will then have 90 days to review. Planning for the development of the six guidance memoranda underway.

Initial CERP Update (ICU): new model nearly complete with the base condition up to year 2000. Models will plug in the components from D-13R and the models will be re-run.

Critical Projects: Ten Mile Creek water quality certification has been resolved. Lake Okeechobee contract has been advertised. Lake Trafford, efforts underway to accelerate work. Tamiami Trail Culverts, contract will be advertised this fall to repave 40 mile stretch. Seminole Big Cypress, Phase I finished.

Corps Budget for FY2003 and 2004 reviewed. President's budget request for FY04 includes \$112,498,000 for C&SF, \$39,063,000 for CERP, \$17,706,000 for Kissimmee and \$14,835,000 for Critical Projects. Craig Tepper asked about the status of the 245,000-acre feet report. Dennis said it is to be submitted this month to HQ. Draft ROD has been submitted to a few agencies for the SW Florida EIS. **Follow-up: Richard Harvey requested an in depth briefing on the SW FL Feasibility Study at a future meeting.**

Consent Agenda Items

Working Group Workplan, Action/Issues and Issue Team Tracking Charts (Encl. 13 a - c) presented without discussion.

Arundo Donax Issue

Rock Salt noted that the concern that precipitated this letter (Encl. 14) in the first place no longer exists and he was not sure this was the right letter to send. Jay Slack said the letter was written based on the discussion held at the last meeting and agreed the letter no longer "on point". Ray Scott added that while the proposal with the Lykes Brothers is off the table, Biomass Investment is still interested in doing this. This relates to the need for the utilities to produce free energy. Biomass Inc. approached dairy farmers north of the lake but the farmers turned them down. He said they need to stay on top of this and added that rule 5B57 currently under revision, authority for listing species consolidated under the Department of Agriculture existing rule on website.

Jay Slack said he was not sure who does this for the state and suggested that there could be a requirement that native species be used and asked how the group could talk to the right folks. Ronnie Best said that a policy, rulemaking change is needed on a national and state level with constraints on invasive species. Interior is investing enormous dollars for controlling exotic species. Jay Slack said this letter is a great example of a native species as a perfect replacement, great poster child. Ray said this would require statutory changes and he anticipated opposition. Maureen Finnerty asked the group whether they wanted to do something beyond monitoring and commenting on rulemaking. Rock Salt suggested revising the letter to the Task Force citing the *arundo donax* problem and give kudos to the Dept of Agriculture for starting the risk assessment. Craig Tepper said substitutes are needed that would justify them being in business, need to offer opportunities for these commercial activities and not just be defensive. **Follow-up: Ray Scott offered to help draft letter and have Rick Smith circulate to everyone and then send it to the Task Force.**

RECOVER

John Ogden reported the Monitoring and Assessment Plan (MAP) is out for 60-day public and agency review. Going before the Governing Board for approval for initial \$1.7 million for monitoring intended to jump start implementation. Performance Measure Documentation Report, companion report to Monitoring Plan, documentation provides for all performance measures they are proposing to use for CERP. Currently draft dated May 23, 2003 posted for internal RECOVER review through July 7, 2003. Those members with representatives on RECOVER will have an opportunity to see it through their representatives. Plan contains 40 evaluations assessment measures and identifies recommended targets. Revision will be made

based on comments received. He recommended everyone look at this extremely important document. They are currently contracting with the Meridian Institute for an Adaptive Management Workshop to support and facilitate three workshops in south Florida as a basis for designing the CERP adaptive management program. First workshop scheduled for the June 18 – 19, 2003 and will be for the internal RECOVER leadership and AAT. Second workshop planned for September 8 –9, 2003 and managers from all the resource agencies will be invited to jointly work through the adaptive management strategy. No date has been set for the third workshop, but the intent is to invite the Working Group. Rock Salt noted his concern with getting managers in the loop early in the process otherwise scientists will come up with a scheme without the buy in of the managers. John Ogden said much thought has been given to this and the intent is to include the managers in the second workshop. RECOVER undergoing a re-examination to make it more effective as well as build confidence.

Minimizing Ecological Impacts

David Hallac provided a presentation (Encl. 15) on the how the FWS Biological Opinion interacts with the PDTs on CERP projects. FWS is applying the science out there to the planning process. Project model is the Lake Okeechobee Watershed Project footprint that will be 54 square miles when built and there will be impacts to native ecosystems. Objective was to develop a tool to help in siting reservoirs and treatment wetlands in locations that minimize impacts to the ecological integrity. The Ecological Value Surface Model was developed for planning purposes. It was not used to analyze impacts to threatened and endangered species but it did help identify those lands with low ecological value. It will be inexpensive to use particularly for those lands that are private or inaccessible. It will also allow for consistency and repeatability and output is easily communicated. The value of the habitat is determined by the intrinsic value as well as the activities that occur and the neighborhood plays an important role. Freshwater marshes surrounded by factories not as valuable as freshwater marshes surrounded by a Cypress Dome. An area of influence consists of 12 cells or 350 meters with each cell ranked from 1 – 10. One represents an area being the least valuable with ten being the most valuable. Three federally listed species (Caracara, Florida Grasshopper and Florida Panther) would be impacted by the project and were included. He noted that the center of the area being the heart of the Caracara community. He reviewed the data used and incorporated into the models. He reviewed the results noting the dark colored areas represent those areas with high ecological values and should be avoided when siting projects. Model is currently being used and information is being provided to the PDTs. He noted the model is applicable to other large restoration projects with siting requirements but may not be applicable to all CERP projects. Craig Tepper requested a copy of the presentation.

Water Resource Protection Strategies

Ken Ammons provided a power point presentation (Encl. 16) and reviewed the background of why paper written which was written to help guide and provide input to the guidance memorandums as well as the PIR process. Paper can be used in the development of future guidance memorandums, however it is a WMD product. He reviewed the purposes and intent of the water resource protection strategies, which are intended to satisfy either WRDA or the State's 1501 requirement. Project Implementation Reports (PIR) Tentatively Selected Plan will be tentative until they have confirmed that they have met the federal assurances. Once the goals and objectives of the project have been met, the results will be compared with the existing legal source and existing legal user protection. The Draft PIR will be drafted if they meet the legal requirements. Reservation for natural system will be done prior to the PCA being signed. Water made available for other uses may be allocated after the project has been constructed and tested. It is a fairly conceptual plan that will require nuance changes either immediately or when RECOVER weighs in on performance and it will be revised as appropriate. Rock asked whether this would include things like MFLs and any reservations in place. He also said he did not understand why an existing legal user would enjoy preferred status as a constraint in the state system. Ken explained that it is not a preferred status. The state consumptive use permitting, MFLs, will in fact be assuring that future waters taken away from CERP are woven into the review process. Ken added that the state has a lot of water resource tools on the books, which is why the federal government agreed in WRDA for the reservations to be set by the state. MFLs, an ongoing process limiting direct and indirect withdrawals for priority water bodies, will be considered as part of any future consumptive use permits. Interim CUP considers how much water will be made available by CERP and make sure whatever they are issuing is not taking water away from CERP baseline. They will also limit future permitting growth and allocation and make sure it is consistent with

the Lower East Coast Water Supply Plan. Initial regional water availability scheduled to be adopted by 2005, it will identify how much regional water goes to consumptive users and limits how much they can get from the system. They will make sure that the cumulative permits in that basin do not exceed what comes in to the system and will be developed in concert with the initial reservations which will protect existing water for fish and wildlife.

Craig Tepper asked whether the Big Cypress MFLs were still on time. Ken said they are still on time for 2004, however, they do have some budgetary issues, but they will work hard to meet the schedule. Ray Scott asked about the PIRs. Ken noted there are three reservations that are possible before 2005: Southern Golden Gate Estates, Indian River Lagoon and site 1 Hillsboro. The Loxahatchee River (this one not related to CERP) may also be set prior to 2005. Jay Slack asked what would happen if less water is available for the natural system. Ken said there is a certain reliance on the existing system and they would wait before issuing a permit, allocation is made after the performance of the projects is determined. Rock said he saw the initial reservation as a viable way to cover the savings clause requirements. He asked how the 2005 initial reservation connects back to the December 2005 savings clause responsibilities for the natural system. Ken said he personally did not see a direct link to the existing legal sources. State law says that when you set the initial reservation you must protect the existing legal users at the time you set the reservation in 2005. Existing legal sources for the environment for the per CERP baseline will be very similar to existing legal users recognizing that there will be an increase in existing CUP which can be done via minimum flows and levels. Next steps include seeking acceptance, not adoption, of the white paper by the Governing Board. Dialogue with the federal and state partners will continue.

Public Comment

Mr. Patrick Hayes (Martin County Soil and Water) said that how “we” define and what it means to be an existing legal source is a stumbling block. The reservation for the natural system still seems to be weaker than the protections for existing legal users. Beneficial runoff will be considered an existing legal source. But this does not go far enough, runoff only occurs during the wet season so this implies that the natural system only has protection during the wet season. The natural system has a right to the same protection as the built system even during the dry system. He noted that the only reservation for the natural system in Florida was done in Paine’s Prairie, and it was done only at the brink of litigation. He said that it was unfortunate that the natural system can only get protection through litigation. The natural system needs legal standing especially during the dry season when much of the damage occurs.

Mr. Dan Clark (Cry of the Ocean) spoke about the invasive species of the sea. Presented an article (Encl. 17 a) on a species that he called the “kudzu of the sea”. Water from the estuaries ends up on the reefs and is causing a rapid growth of this invasive species in points north like Palm Beach and Ft. Pierce. Submitted a letter (Encl. 17 b) signed by seventy Ph Ds on the physical impacts of the dredge and fill projects on the reefs. He noted the Coral Reef Task Force put out a document and on how to set goals and objectives, which might help the Working Group with its process issues.

Ms. April Gromnicki (Audubon of Florida) said she failed to see the difference between using CERP water to keep permits and using CERP water to address the existing legal uses through time. Continuing to issue permits and use CERP water, you are already re-doing a CERP allocation prior to natural system allocation. She suggested fixing this in the paper. She said that the existing condition PIR baseline analysis may demonstrate a violation of the President/Governor’s Agreement and it would be useful to discuss how the PIR baseline and the Agreement relate. She added it was confusing because it appears that priority is being given to new CUP. The state needs to use its regulatory authority to avoid allocating water needed for CERP to new cups.

Mr. Patrick Hayes said that while the district has set a minimum flows and levels (MFLs) for the north west portion of the Loxahatchee River it still needs to be set for the southern portion and its tributaries.

Patti Webster thanked Ken Ammon for his accessibility to the Broward County staff. She pointed out a letter in the white paper that does not reflect Broward’s complete position and pointed out that there is some follow up communication that clarifies the commissioners position. Ken asked for copies of that communication for inclusion in the final draft.

Executive Director's Report

Rock Salt reviewed the key discussion items (Encl. 18) for the Task Force meeting. The agenda will include a joint session with the WRAC, second session of the Avian Ecology Workshop, Charter for the CSOP Advisory Committee, Working Group reforms and Programmatic Regulations, if ready. Task Force is also planning a Tenth Anniversary celebration in December 2003. Working Group session may follow the Task Force meeting.

Litigation Update

Joan Lawrence thanked Norman Hemming, Jay Slack and Joni Burda for their input on the following litigation update (Encl. 19):

- 1) *Sierra Club v. Struhs*: This case challenges a change in Florida law made last year that limits a citizen's right to file Chapter 120 appeals. No reported change in status of the litigation since May. The 2003 Florida Legislature did reenact the CERP bonding bill that passed in 2002 as HB 813. That authority in SB 54-A will allow DEP to issue the \$100M that would have been issued last year and \$100M scheduled for issuance this year.
- 2) *Miccosukee Tribe v. SFWMD*: This is the NPDES permit for the S-9 pump station. The SFWMD appealed to the Supreme Court. The United State filed an amicus brief and recommended against the Supreme Court hearing the case as it does not conflict with any decision of the U.S. Supreme Court or another federal court of appeals; does not present an issue of exceptional nationwide importance; is unlikely to subject the SFWMD to any substantial new pollution control requirements and appears to have limited importance beyond the operation of Everglades structures.
- 3) The inverse condemnation case (Caymen Cattle) involving acquisition of land for the C-44 CERP project has been resolved.
- 4) Florida Sugar Cane League, Florida Crystals and U.S. Sugar have filed against the FDEP on the adoption of the phosphorus criterion rule. They request the court to enter an order staying the effectiveness of the Everglades Forever Act's default criterion until final adoption of the phosphorus criterion rule and the conclusion of any administrative rule challenges and judicial appeals. Several other agricultural interests filed cases requesting similar relief and all cases have been consolidated. Audubon of Florida has filed a motion to intervene and the Sugar Cane Coop has filed in opposition to Audubon's motion.
- 5) *U.S. v. SFWMD, et al*, Case 88-CIV-Hoevler (S.D. Florida): The case was settled in 1991. On May 9, Judge Hoeveler issued an order outlining his intention to enforce the consent decree as it currently stands and expressed concerns about the legislation to amend the Everglades Forever Act and about the Florida state agencies' ability to comply with the requirements of the decree. In light of these concerns, the Judge determined that the appointment of a Special Master is warranted and invited parties to address the court on June 10 on the scope of the authority and potential candidates for the position. Two motions filed by agricultural interests to amend the order with respect to the Special Master.
- 6) *Miccosukee Tribe of Indians v. United States of America*: This is the challenge by the Tribe to the Army Corps of Engineer's Interim Operational Plan (IOP). NRDC has intervened stating that the relief the Tribe requests would violate the ESA and failure by the Corps to implement the features of Alternative 7R to protect the sparrow would result in a violation of the ESA.
- 7) *Miccosukee Tribe v. United States*: suit filed in January 2002 by the Tribe and several South Miami-Dade county agricultural interests over IDOP. ISOP was found to be continuing to cause jeopardy to the sparrow and needed improvements to ISOP resulted in IOP. The ISOP suit has been declared moot and dismissed. The Tribe filed a notice of Appeal.

Ronnie Best requested that an appropriate thank you letter be drafted for the Florida Earth Foundation. Patti Webster noted the federal legislative issues are inter-related to state legislative issues and requested this be a standing agenda item. She asked whether the Working Group would discuss the long-term plan with presenters available to answer questions. Rock said he was unclear as to how that would be done and added the WRAC had discussed having this on the agenda at the joint TF/WRAC meeting. Ray Scott and Patti Webster suggested the WG receive a briefing on the WRAC concerns regarding the Long Term Plan given the stakeholder involvement in WRAC. Rick Smith suggested recognizing Brad Brown for his nine years of service on the Working Group and having a collection at the next meeting.

Meeting adjourned at 11:45 AM.

Follow-up Items:

1. Working Group options paper would be revised and circulated to members. It would then be presented to the Task Force at its July meeting.
2. Fred Rapach requested an update on the Long Term Plan
3. Ray Scott to help re-write the *Arundo donax* letter

Enclosures:

1. Agenda
2. Draft Meeting Minutes, May 2003
3. Draft Working Group Options Paper
4. Draft SCT Recommendations
5. Draft Everglades Science Compendium
6. Legislative Update
7. Lake Okeechobee Power Point Presentation
8. Adaptive Protocols for Lake Okeechobee Operations
9. DRAFT CSOP Charter
10. Florida Earth News
 - a. Presentation
 - b. Newsletter
11. Cry of the Water Video
12. Corps Power Point Presentation
13. Consent Agenda Items
 - a. Working Group 2003 Workplan
 - b. Actions/Issues Tracking Chart
 - c. Issue Team Tracking Chart
14. Draft *Arundo donax* letter
15. Minimizing Ecological Impacts Power Point Presentation
16. Water Resource Strategies Power Point Presentation
17. Dan Clark's handouts
 - a. Environmental News Service article on invasive algae
 - b. Dredge and Fill letter to COL Miller (dated June 2000)
18. July Task Force meeting - Key Discussion Items
19. Litigation Update
20. Working Group Roster